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Supplemental Appeal Brief - D/98485D
Serial Number 10/037,905

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 Attorney Docket No. 98485D
 Supplemental Appeal Brief to USSN 10/037,905 Page 1 of 7

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Inventor(s): Ricardo L. de Queiroz

Application No.: 10/037,905

Filed: 11/09/2001

Examiner: S. Brinich

Art Unit: 2624

Title: BLOCKING SIGNATURE DETECTION
 FOR IDENTIFICATION OF JPEG IMAGES

Commissioner for Patents
 P.O. Box 2327
 Arlington, VA 22202

Sir:

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 or Registered Representative)

Elaine Zahn
 (Signature)

June 14, 2003

Date of Signature

**REQUEST FOR REINSTATEMENT OF THE APPEAL
 & SUPPLEMENTAL APPEAL BRIEF**

In consideration of the reopened prosecution by the Examiner in the Office Action (Paper No. 8) mailed on March 12, 2004, appellant requests reinstatement of the Appeal and hereby submits this Supplemental Appeal Brief.

Three copies of this Supplemental Appeal Brief are enclosed herewith.

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* * *

This Supplemental Appeal Brief incorporates by reference the following listed parts of the previously-filed brief filed by Appellant on December 12, 2003:

REAL PARTY IN INTEREST**RELATED APPEALS AND INTERFERENCES****STATUS OF CLAIMS****STATUS OF AMENDMENTS****SUMMARY OF THE INVENTION**

* * *

ISSUES

Whether claim 25 is unpatentable under 35 USC 102(e) as anticipated by Hintzman et al. (US Patent No. 5,818,364) or Golin (U.S. Patent 5,787,207).

GROUPING OF CLAIMS

Claim 25 of this patent application is the sole claim at issue in this Appeal.

ARGUMENT**(I) Rejection based on 35 USC 112, first paragraph**

None applicable.

(II) Rejection based on 35 USC 112, second paragraph

None applicable.

(III) Rejection(s) based on 35 USC 102(e)

Claim 25 stands rejected as being anticipated by Hintzman et al.

This Supplemental Appeal Brief incorporates by reference the Arguments previously submitted regarding this rejection in the previously-filed brief filed on December 12, 2003.

Claim 25 stands rejected as being anticipated by Golin.

In consideration of the reopened prosecution by the Examiner in the Office Action (Paper No. 8) mailed on March 12, 2004, Appellant requests reinstatement of the Appeal

and hereby submits the following argument with respect to the newly-cited art (Golin, U.S. Patent 5,787,207).

The Examiner alleged that Golin at discloses the claimed "image processing method in which blocking artifacts...indicative of compression... are detected and an output is generated ...indicative of image compression...." The Examiner points to disclosure by Golin at column 1, lines 18-57. Appellant has already distinguished such disclosure by stating in the Specification at page 4, lines 10-16 that blocking discontinuities are present and readily discernible in compressed images:

"The method of the present invention is based on the analysis of subtle blocking discontinuities that are present and readily discernible in compressed images. For example in producing JPEG compressed images, the image is divided into blocks that are transformed, quantized, and compressed virtually independently. Thus, discontinuities across block boundaries (blocking effects) account for the most noticeable compression artifact caused by JPEG compression."

Golin, in the excerpt at column 1, lines 18-57 noted by the Examiner in support of this rejection, merely restates the problem noted by Appellant (that block boundary discontinuities are known to be noticeable compression artifact caused by compression.)

In support of the rejection, the Examiner also pointed to disclosure by Golin at column 7, lines 28-56, and in particular to column 7, lines 41-46. Such disclosure by Golin merely teaches the use of "...side information generated during encoding operations is transmitted and used during decoding..." (col. 7, lines 38-40.) Such "side information" is generated during *encoding*, and *not* in response to a detection of blocking artifacts. Golin thus lacks the claimed step (b), which is performed in response to the performance of claimed step (a):

- "(a) detecting blocking artifacts presented in the form of discontinuities across block boundaries in the image, said blocking artifacts thereby being indicative of compression; and
- "(b) providing an output indicative of compression in response to the detection of the blocking artifacts."

At best, Golin teaches only an output made during encoding that denotes the presence of a discontinuity, and there is no description or suggestion therein of an output

indicating image compression, nor is there such an output provided in response to a detection of blocking artifacts. The pending claim clearly distinguishes over the cited art. The 102(e) rejection is not properly supported and therefore should be reversed.

Anticipation occurs only if a single prior art reference contains each and every element of the patent at issue, operating in the same fashion to perform the identical function as the patented product. Any degree of physical difference between the patented product and the prior art, no matter how slight, defeats the claim of anticipation. (*American Permahedge, Inc., v. Barcana, Inc.* , 857 F. Supp. 308, 32 USPQ2d 1801, 1807-08 (S.D.N.Y. 1994)). The Examiner has failed to show the anticipation of each and every element of claim 25 in Golin and thus has failed to make a *prima facie* showing of anticipation.

(IV) Rejection based on 35 USC 103

None applicable.

(V). Other Rejections

None applicable.

The Board of Appeals is respectfully urged to reverse the Examiner's rejection of claim 25 and allow the application in its present form.

Respectfully submitted,

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APPENDIX I

(CLAIMS APPEALED)

25. A method to detect if an image is compressed, comprising the steps of:

- (a) detecting blocking artifacts presented in the form of discontinuities across block boundaries in the image, said blocking artifacts thereby being indicative of compression; and**
- (b) providing an output indicative of compression in response to the detection of the blocking artifacts.**